

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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North Star Reinsurance
Corporation,

Plaintiff,

- against -

08 Civ. 02380 (DAB)

AFFIDAVIT FOR
DEFAULT JUDGMENT
AND STATEMENT OF
DAMAGES

Harel Insurance Company
f/k/a Zion Insurance Company
Limited

Defendant,

-----X

State of New Jersey)

)

County of Essex)

Mark D. Hoerner, being duly sworn, deposes and states:

1. I am a member of the Bar of this Court and am a shareholder with the firm of Budd Lerner, P.C., attorneys for plaintiff in the above-entitled action and I am familiar with all the facts and circumstances in this action.

2. I make this affidavit pursuant to Rule 55.1 and 55.2(b) of the Civil Rules for the Southern District of New York, in support of plaintiff's application for entry of a default judgment against defendant.

3. Jurisdiction of the subject matter of this action is based on 28 U.S.C. §1332 because there is diversity of citizenship among the parties and the amount in controversy exceeds \$75,000.

4. This is an action to recover a sum certain owed by defendant to plaintiff for unpaid balances of the Final Award of the arbitration panel. Attached hereto as exhibit A is a true and correct copy of the Final Award dated April 4, 2007.

5. This action was commenced on March 7, 2008 by the filing of a summons. Attached hereto as exhibit B is a true and correct copy of the summons dated March 7, 2008.

6. A copy of the summons was served on defendant on March 10, 2008 by personal service on Mendes and Mount who, pursuant to the contract between the parties, is defendant's agent for service of process. Service was made by personal delivery, and proof of service by the Special Process Server was filed. Attached hereto as exhibit C is a true and correct copy of the Affidavit of Service dated March 17, 2008.

7. The defendant has not answered the complaint and the time for the defendant to answer the complaint has expired. Attached hereto as exhibit D is a true and correct copy of the Petition to Confirm the Arbitration Award dated March 5, 2008.

8. The default of Zion was noted by the Clerk on June 5, 2008. Attached hereto as exhibit E is a true and correct copy of the Clerk's Certificate dated June 5, 2008.

9. Under the Final Award of the arbitrator Zion was ordered to pay North Star \$224,615.34. This total amount is the sum of (a) \$152,439.44 for amounts billed and outstanding under the Treaties at January 21, 2007; and (b) \$57,175.90 for interest accrued on the balances through December 20, 2006; and (c) \$15,000 for costs associated with bringing the arbitration.

10. The Final Award ordered that North Star would advise defendant of its share of reserves under the treaties as at December 31, 2006 and that defendant would be required to conform to the terms of an existing Letter of Credit to Article XI of the Treaties with regard to its share of North Star's reserves, as of the time of the Final Award and in the future. As of June 30, 2008, the share of defendant's reserves is \$29,925.

11. In the event defendant did not make the required payments, the Final Award authorized North Star to draw down a provided a Letter of Credit in the amount of \$172,470. Because of defendant's complete failure to pay the Award, North Star drew down the full amount of the Letter of Credit. Accordingly, there is currently no letter of credit issued for the benefit of North Star.

12. The Final Award grants North Star interest on any outstanding amounts at the compounded at a rate of 9% per annum.

13. The Final Award orders that all of Zion's obligations under the treaties remain in full force and effect. Zion is ordered to pay all future billings under the treaties within 30 days of receipt from either North Star or the broker. Amounts not paid by the 30th day shall accrue interest at the compounded rate of 9% per annum from the 31st day forward.

14. This action seeks judgment for the amount of \$68,604.04, which is calculated as follows: (a) \$56,450.58, which represents the difference between the total amount required in paragraph 2 of the Final Award (\$224,615.34) and the drawn Letter of Credit (\$172,470) equal to \$52,145.34, plus interest in the amount of \$4,305.24; and (b) \$12,153.46 which represents \$11,538.65 in billings submitted by plaintiff in the time since the award in this matter, plus interest at the compounded rate of 9% per annum equal to \$614.81.

15. This action also seeks judgment requiring Zion to post \$29,925 in security for its share of North Star's reserves for losses as per the Final Award of the arbitration panel, which is justly due and owing.

16. This action also seeks judgment requiring Zion to pay all future billings within 30 days of receipt from the broker or North Star.

17. Future billings not paid within 30 days will begin to accrue interest at the compounded rate of 9% per annum.

18. Defendants should pay reasonable attorney's fees in the amount of \$15,520.50 for costs associated with enforcing the Final Award.

19. The disbursements sought to be taxed have been made in this action or will necessarily be made herein.

WHEREFORE, plaintiff requests the entry of Default and the entry of the annexed Judgment against defendant.

Dated: Short Hills, New Jersey
July 16, 2008

BUDD LARNER, P.C.
150 John F. Kennedy Parkway
Short Hills, NJ 07078-2703
(973) 379-4800 (phone)
mhoerrner@budd-larner.com (e-mail)

Attorneys for North Star Reinsurance
Corporation

By: Mark D. Hoerrner
Mark D. Hoerrner

Sworn to before me this 16th
Day of July, 2008.
Rosemary Bonocore
Notary Public

w.678331

ROSEMARY A. BONOCORE
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires March 8, 2009

EXHIBIT A

In the Matter of Arbitration Between:)

NORTH STAR REINSURANCE)
CORPORATION,)

Petitioner)

-and-)

HAREL INSURANCE COMPANY)
f/k/a ZION INSURANCE COMPANY)
LIMITED,)

Respondent)

Susan E. Grondine, Arbitrator/Umpire

FINAL AWARD

In the Matter of Arbitration between North Star Reinsurance Corporation ("North Star") and Harel Insurance Company f/k/a, and successor-in-interest to, Zion Insurance Company Limited ("Harel"), a hearing was held in New York City, NY pursuant to an agreement of the Parties and by contracts known as the First and Second Excess of Loss Reinsurance Treaties ("Treaties"). Considering all of the documentary and testimonial evidence presented during the full course of this Arbitration and hearing the arguments of the Parties by their representatives, I hereby rule as follows:

1. The Treaties are valid and enforceable and bind Harel to a .05% share as described in the Addendum 1 and Addendum 5 of the Treaties.
2. On or before May 4, 2007 Harel is ordered to pay North Star the following sums (USD):
 - A. \$152,439.44 for amounts billed and outstanding under the Treaties at January 21, 2007;
 - B. \$57,175.90 for interest accrued on the balances through December 20, 2006;
 - C. \$15,000.00 for costs associated with bringing this Arbitration.
3. On or before May 15, 2007, North Star shall advise Harel of its share of reserves under the Treaties as at December 31, 2006.

4. On or before May 31, 2007 Harel is ordered to conform to the terms of the Letter of Credit Article XI of the Treaties with regard to its share of North Star's reserves, now and in the future. For the avoiding doubt Harel shall use one of the banks on the list attached hereto as Appendix A if a letter of credit is used to secure the reserves.
5. Upon confirmation to the Arbitrator that payment has been made pursuant to paragraph 2, and that either a funds held account or fully compliant contract LOC has been established pursuant to paragraph 3, the original letter of combined credit dated December 20, 2006 ("Letter of Credit") will be returned to Harel for cancellation.
6. In the event that Harel does not make the required payments or fund its share of reserves as set forth in paragraphs 2 and 3 above, then the Arbitrator will provide North Star with the Letter of Credit and hereby authorizes North Star to immediately draw down the full amount of \$172,470.
7. Any outstanding amounts will accrue interest at the compounded rate of 9% per annum.
8. Harel's obligations under the Treaties remain in full force and effect going forward. Harel is ordered to pay all future billings under the Treaties within 30 days of receipt from the London broker and/or North Star.
9. Any amounts not paid by the 30th day shall accrue interest at the compounded rate of 9% per annum from the 31st day forward.
10. Harel shall retain all rights under the Treaties including, but not limited to, the inspection of records. Should Harel wish to invoke this right, its account must be current at the time of its request. At any and all reasonable times, North Star shall then allow Harel, and or it's duly appointed representatives, to perform such inspection.
11. All other demands and requests by the parties for relief are specifically denied.

12. The Arbitrator retains jurisdiction in this matter in order to effectuate the ultimate disposition of the Letter of Credit as described above. Once the Letter of Credit has been returned to either of the Parties, the Arbitrator shall relinquish such jurisdiction.

Ordered and submitted to the Parties and their respective counsel:

Susan E. Grondine Dated: April 4, 2007
Susan E. Grondine

APPENDIX A

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Section 12. List of Banks

Explanatory Note: State insur- regulators and insurance companies may use this list for an purpose of the purposes discussed in Part Ten of this Manual (*Creation and Maintenance of Bank List*).

A specific banking entity must apply to be listed only once. This means that an insurance company may d business with: (i) a listed domestic parent bank entity, and any of its unlisted domestic branches; (ii) a liste domestic branch of a domestic parent bank entity, the unlisted domestic parent bank entity and any other unlisted domestic branches of the same domestic parent bank entity; and (iii) a listed U.S. branch of a foreig bank entity and any other unlisted U.S. branches of the same foreign parent bank entity.* Notwithstanding th above, any entity related to a domestic listed entity (i.e. parent or branch) may apply to be listed independently.

Any domestic parent bank entity, its domestic branches and U.S. branches of a foreign parent bank entity wit no related entity on the list that wants to be listed must apply to the SVO. The procedure for being placed o this list is described in Part Ten, Section 3 of this Manual.

*This policy only applies to banks that share the same legal identity. Banking entities that share the same o similar names but that are separately chartered, and bank subsidiaries, that want to be listed, must appl individually.

Bank Name	City/State	Country
ANZ Banking Group, Ltd.	New York, NY	Australia
AgStar Financial Services, ACA	Mankato, MN	USA
Alliance Bank of Arizona	Phoenix, AZ	USA
Allied Irish Bank	New York, NY	Ireland
Allstate Bank	Vernon Hills, IL	USA
AmSouth Bank	Birmingham, AL	USA
American National Bank	Cheyenne, WY	USA
Anchor Bank Heritage N.A.	North Saint Paul, MN	USA
Arthur State Bank	Union, SC	USA
Associated Bank, N.A.	Green Bay, WI	USA
BNP Paribas	New York, NY	France
BancFirst	Oklahoma City, OK	USA
Banca Intesa	New York, NY	Italy
Banca Nazionale del Lavoro SpA	New York, NY	Italy
Banca di Roma S.p.A.	New York Branch	Italy
Banco Bilbao Vizcaya Argentaria	New York, NY	Spain
Banco Santander Central Hispano	New York, NY	Spain
Bank of Agriculture & Commerce	Stockton, CA	USA
Bank of Albuquerque, N.A.	Albuquerque, NM	USA
Bank of America, N.A.	Los Angeles, CA	USA
Bank of Arizona, N.A.	Phoenix, AZ	USA
Bank of Arkansas, N.A.	Fayetteville, AR	USA
Bank of Hawaii	Honolulu, HI	USA

Mizuho Corporate Bank USA
 Morgan Stanley Bank
 Morton Community Bank
 Natexis Banque
 National Australia Bank Ltd.
 National Bank of Canada
 National City Bank
 National Penn Bank
 Norddeutsche Landesbank Girozentrale
 Nordea Bank Finland Plc.
 North Fork Bank
 Oxford Bank and Trust
 PNC Bank, National Association
 Pacific Capital Bank N.A.
 Pacific Continental Bank
 Penn Security Bank and Trust Company
 Prosperity Bank
 RBC Centura Bank
 Rabobank International
 Regions Bank
 Republic Bank & Trust Company
 RiverHills Bank
 Royal Bank of Canada
 Royal Bank of Scotland Plc.
 S&T Bank
 SANPAOLO IMI S.p.A.
 Security State Bank of Hibbing
 Signature Bank
 Silicon Valley Bank
 Sky Bank
 Societe Generale
 Southern Bank and Trust Company
 Sovereign Bank, FSB
 Standard Chartered Bank
 State Bank & Trust
 State Street Bank and Trust Company
 Sterling Bank
 Sumitomo Mitsui Banking Corp.
 Summit Bank, N.A.
 SunTrust Banks, Inc.
 Svenska Handelsbanken AB
 Synovus Bank of Tampa Bay
 TD BankNorth, N.A.
 Texas Capital Bank, NA
 The Bank of New York
 The Bank of Tokyo-Mitsubishi UFJ, Ltd.
 The Bank/First Citizens Bank
 The Dime Bank

New York, NY
 West Valley City, UT
 Morton, IL
 New York, NY
 New York, NY
 New York, NY
 Cleveland, OH
 Boyertown, PA
 New York, NY
 New York, NY
 Melville, NY
 Addison, IL
 Pittsburgh, PA
 Santa Barbara, CA
 Eugene, OR
 Scranton, PA
 El Campo, TX
 Charlotte, NC
 New York, NY
 Montgomery, AL
 Louisville, KY
 Vicksburg, MS
 New York, NY
 New York, NY
 Indiana, PA
 New York, NY
 Hibbing, MN
 New York, NY
 Santa Clara, CA
 Salineville, OH
 New York, NY
 Mount Olive, NC
 Boston, MA
 New York, NY
 Fargo, ND
 Boston, MA
 Houston, TX
 New York, NY
 Fort Worth, TX
 Atlanta, GA
 New York, NY
 St. Petersburg, FL
 Montpelier, VT
 Dallas, TX
 New York, NY
 New York, NY
 Cleveland, TN
 Honesdale, PA

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EXHIBIT B

JUDGE BATTS
Southern

UNITED STATES DISTRICT COURT

District of

New York

North Star Reinsurance Corporation

SUMMONS IN A CIVIL CASE

V.

Harel Insurance Company f/k/a Zion Insurance
Company Limited

CASE NUMBER:

08 CV 02380

TO: (Name and address of Defendant)

Harel Insurance Company
f/k/a Zion Insurance Company Limited
3 Abba Hillel Street, P.O.B. 1951
Ramat Gan, Israel 52118**YOU ARE HEREBY SUMMONED** and required to serve upon PLAINTIFF'S ATTORNEY (name and address)Joseph J. Schiavone, Esq.
Budd Lerner, P.C.
150 John F. Kennedy Parkway
Short Hills, New Jersey 07078
Attorneys for Petitioner
North Star Reinsurance Corporation

answer to the complaint which is herewith served upon you, within twenty (20) days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

J. MICHAEL McMAHON**MAR 07 2008**

ERK

DATE

DEPUTY CLERK

O 440 (Rev. 10/93) Summons in a Civil Action

RETURN OF SERVICEService of the Summons and complaint was made by me⁽¹⁾

DATE

NAME OF SERVER (PRINT)

TITLE

Check one box below to indicate appropriate method of service☐ Served personally upon the defendant. Place where served: _____☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.

Name of person with whom the summons and complaint were left: _____

☐ Returned unexecuted: _____☐ Other (specify): _____**STATEMENT OF SERVICE FEES**

FEE

SERVICES

TOTAL

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on _____

Date

Signature of Server

Address of Server

As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

655884.w

EXHIBIT C

United States District Court Of New York
Southern District

Docket Number
08 CV 02380

North Star

Vs

Affidavit of Service

Zion

State Of New York

I Melvin Westreich delivered a Summons, Notice of Petition to Confirm Arbitration Award, Petition to Confirm Arbitration Award, Notice of Motion to File Under Seal Confidential Exhibits to the Declaration of Joseph J. Schiavone, Declaration of Joseph J. Schiavone in Support of Petition to Confirm and Motion to Seal, Memorandum of Law in Support of Petition to Confirm Arbitration Award and Motion to Seal, Order to Seal, Declaration of Robert Edgeworth in Support of Motion for Leave to File Under Seal Confidential Exhibits to the declaration of Joseph J. Schiavone, Notice of Lodging Confidential Documents with Court and Rule 7.1 Disclosure. This was served on Monday, March 10, 2008 on Mendes and Mount 750 7th Avenue New York. I was not allowed upstairs in the building and was told I must serve it in the mail room. Ed Murray from the mail room accepted at 2:15pm.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

Melvin Westreich

Was at the time of service a competent adult

Not having a direct interest in the litigation.

I declare under penalty of perjury that the foregoing

Statement is true.

[Signature]
Signature of Process Server

3-17-08
Date

Sworn to on this 17 day of March, 2008

[Signature]
Notary Signature

JOSEPH L. HORN
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Aug. 3, 2008

EXHIBIT D

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In the Matter of the Arbitration
Between:

NORTH STAR REINSURANCE CORPORATION,
Petitioner,

-against-

HAREL INSURANCE COMPANY f/k/a ZION
INSURANCE COMPANY LIMITED,

Respondent.

Docket No. _____

PETITION TO CONFIRM
ARBITRATION AWARD

Petitioner North Star Reinsurance Corporation ("North Star"), by and through its attorneys, Budd Larner, P.C., alleges as follows:

Nature of the Petition

1. This is a Petition pursuant to 9 U.S.C. §§9 and 201-203 to confirm a Final Award issued on April 4, 2007 in a reinsurance arbitration between the parties entitled "In the Matter of the Arbitration Between North Star, Petitioner, against Harel Insurance Company f/k/a Zion Insurance Company Limited, Respondent."

2. This action arises under the Federal Arbitration Act because the reinsurance contracts at issue evidence transactions involving commerce among the several states.

The Parties, Jurisdiction and Venue

3. North Star is a corporation organized and existing under the laws of the State of Delaware. Its principal place of business is at 695 East Main Street, Stamford, Connecticut 06901.

4. Upon information and belief, Respondent Zion Insurance Company Limited ("Zion") is a foreign corporation organized under the laws of the Israel which was subsequently acquired by Harel Insurance Company, a foreign corporation organized under the laws of Israel, with its principal place of business in Ramat Gan, Israel.

5. The Court has federal question jurisdiction over this matter pursuant to 28 U.S.C. §1331 and 9 U.S.C. §201-203. The arbitration agreements at issue are contained in retrocessional reinsurance contracts between North Star and Zion. Those contracts constitute commercial agreements between a citizen of the United States and a citizen of a foreign country. The United States and the foreign country, Israel, are signatories to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 9 U.S.C. §201 *et seq.*

6. The Court has jurisdiction over this action pursuant to 28 U.S.C. §1332 because there is diversity of citizenship between the parties and the amount in controversy exceeds the sum of \$75,000.

7. Venue is proper in this district pursuant to 28 U.S.C. §1391 (b)(2) and 9 U.S.C. §204 because the contracts between North Star and Zion provide for the arbitration to take place in New York with New York law to be applied and the Award was made in this District. Additionally, venue is proper under 28 U.S.C. §1391(c) as Zion is subject to service of process in this district.

Factual Background

A. The Retrocessional Contracts and Arbitration Clauses

8. Reinsurance enables an insurance company to insure its liability under insurance policies that it issues to its insureds. In reinsurance, the insurer (often referred to in this context as the "cedent") transfers a portion of its liability to a reinsurer.

9. A retrocessional contract is reinsurance for the benefit of a reinsurer. In this context, the assuming company is sometimes referred to as the "retrocessionaire."

10. North Star and Zion entered into two treaties of retrocessional reinsurance (the "Contracts") under which Zion, as the retrocessionaire, provides certain reinsurance coverage to North Star. Copies of these contracts, effective July 1, 1970 through June 30, 1971, are attached to the Declaration of Joseph J. Schiavone, dated March 5, 2008 ("Schiavone Decl.") as Exhibits A and B, respectively.

11. The Contracts contain arbitration clauses that provide in part that any dispute arising out of the Contracts shall be referred to arbitration. Id. at Exhibit A, Article XVII; Exhibit B, Article XVII.

12. The Contracts further state that the decision arising from the arbitration shall be final and binding upon the contracting parties. Id.

B. The Arbitration

13. By letter dated May 15, 2006, North Star demanded arbitration against Zion to recover amounts due under the Contracts.

14. At Zion's request, the parties agreed to proceed with the arbitration before Susan E. Grondine as sole Arbitrator/Umpire (the "Arbitrator/Umpire").

15. The arbitration was conducted pursuant to a Confidentiality Agreement, which remains in effect. Schiavone Decl. at Exhibit C.

16. Upon North Star's motion, the Arbitrator/Umpire issued an Interim Ruling requiring Zion to post pre-hearing security in the amount of \$172,470.

17. Following discovery, the parties submitted pre-hearing briefs and attended an arbitration hearing on March 5, 2007.

18. The Arbitrator/Umpire issued a Final Award on April 4, 2007 ordering Zion to pay a total of \$224,615.24, consisting of

outstanding claim balances, interest on the outstanding balances and costs for bringing the arbitration. Schiavone Decl. at Exhibit D.

19. Zion was also ordered to post and maintain security for its share of North Star's reserves on a prospective basis. Id.

20. The Final Award specified that the contracts remained in full force and Zion had to pay all future billings within 30 days of receipt. Id.

21. With respect to all unpaid billings, the Final Award provided that interest accrued at a rate of 9% per annum, compounded. Id.

22. By letter of April 16, 2007, North Star informed Zion that Zion's share of the reserves as of that date was \$33,992.

23. By E-mail dated May 7, 2007, Zion's counsel indicated that Zion had not made payment by the May 4, 2007 deadline, offering no explanation or reasoning.

24. By letter of June 20, 2007, North Star wrote the Arbitrator/Umpire notifying her of Zion's disregard of the Final Award and requesting relief in the form of a Supplemental Final Award.

25. The Arbitrator/Umpire elected not to issue the proposed Supplemental Final Award due to lack of jurisdiction over matters subsequent to the Final Award.

26. North Star has drawn down the pre-hearing security posted by Zion, but pursuant to the Final Award, is still owed an additional balance and interest thereon since the date of the Final Award, totaling \$69,262.24. Schiavone Decl. at Exhibit E. Zion is also required to post \$25,433 in security for its share of North Star's reserves for losses on a prospective basis. Id.

Count I

27. North Star incorporates each of the allegations contained in paragraphs 1 through 15 of this Petition.

28. No grounds exist to vacate or modify the Award nor was any motion made to vacate, modify, or correct the Award within the three month limitation proscribed by 9 U.S.C. §12.

29. This Petition is timely because it is filed within one year after the Award was made.

30. North Star is entitled to confirmation of the April 4, 2007 Final Award pursuant to the Federal Arbitration Act, 9 U.S.C. §1 et seq. and 9 U.S.C. §§201 et seq.

WHEREFORE, North Star requests that the Court enter judgment confirming the April 4, 2007 Final Award and granting North Star post-award interest and such other further relief as is just and proper.

Dated: March 5, 2008
Short Hills, New Jersey


BUDD LARNER, P.C.
11 Penn Plaza - 5th Floor
New York, New York 10001
(212) 946-2798

- and -

150 John F. Kennedy Parkway
Short Hills, New Jersey 07078
(973) 379-4800

Attorneys for Petitioner North
Star Reinsurance Corporation

BY:


Joseph J. Schiavone (JS 7303)

655730.w

EXHIBIT E

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

North Star Reinsurance
Corporation,

08 Civ. 02380

CLERK'S CERTIFICATE

- against -

Harel Insurance Company
f/k/a Zion Insurance Company
Limited

-----X

I, J. MICHAEL MCMAHON, Clerk of the United States District Court for the Southern District of New York, do hereby certify that this action commenced on March 7, 2008 with the filing of a summons, a copy of the summons was served on defendant by serving Mendes and Mount, 750 7th Avenue, New York, New York, by hand delivery of Melvin Westreich to the mail room on March 10, 2008, and proof of such service thereof was filed on March 17, 2008.

I further certify that the docket entries indicate that the defendant has not filed an answer or otherwise moved with respect to the petition herein. The default of the defendant is hereby noted.

Dated: New York, New York

4/5/08

J. MICHAEL MCMAHON
Clerk of the Court

By: 
Deputy Clerk